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PTO/SB/65 (08-08)

Approved for use through 4/30/2009. OMB 0651-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

TD-101

**RECEIVED**

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Fax: (571) 273-8300

JAN 07 2009

**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number 6,816,151Application Number 09/986,591Issue Date November 9, 2004Filing Date 10/09/2001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366 (c) and (d).

**Also complete the following information, if applicable**

The above-identified patent:

- is a reissue of original Patent No. \_\_\_\_\_, original issue date \_\_\_\_\_;  
original application number \_\_\_\_\_,  
original filing date \_\_\_\_\_.
- resulted from the entry into the U.S. under 35 U.S.C. 371 of international  
application \_\_\_\_\_ filed on \_\_\_\_\_.

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is  
(1) being deposited with the United States Postal Service on the date shown below with sufficient  
postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for  
Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR  
(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark  
Office at (571) 273-8300.

12/24/2008D L B

Signature

David L. Banner

Typed or printed name of person signing Certificate

12/30/2008 SLUANG1 00000012 6816151  
01 FC:1399Date  
1190.00 DP

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**1. SMALL ENTITY**

- Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

**2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS**

- Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

**3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))**

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 1/2 yr fee	(1551)	<input checked="" type="checkbox"/> \$ <u>490</u>	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$ _____	7 1/2 yr fee	(1552)	<input type="checkbox"/> \$ _____	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$ _____	11 1/2 yr fee	(1553)	<input type="checkbox"/> \$ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ \$490.00

**4. SURCHARGE**

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ \$700.00

**5. MANNER OF PAYMENT**

- Enclosed is a check for the sum of \$ 1190.
- Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.
- Payment by credit card. Form PTO-2038 is attached.

**6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY**

- The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_.

**7. OVERPAYMENT**

As to any overpayment made please

Credit to Deposit Account No. \_\_\_\_\_

OR

Send refund check.

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

**8. SHOWING**

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

**9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.**

\_\_\_\_\_  
Signature(s) of Petitioner(s)

\_\_\_\_\_  
David L. Banner

\_\_\_\_\_  
Typed or printed name(s)

\_\_\_\_\_  
Banner Development, Inc.

\_\_\_\_\_  
Address

\_\_\_\_\_  
P.O. Box 8859, Endwell, NY 13762

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
39898

\_\_\_\_\_  
Registration Number, if applicable

\_\_\_\_\_  
Telephone Number

**ENCLOSURES:**

- Maintenance Fee payment
- Statement why maintenance fee was not paid timely
- Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
- Other:

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

D.L.B.

Signature

December 24, 2008

Date

David L. Banner

Typed or printed name

39898

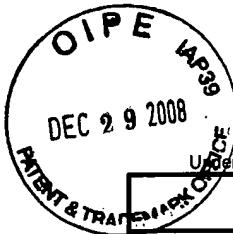
Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

The undersigned mailed a check in the amount of \$555.00, a Maintenance Fee Transmittal Form, and a return receipt postcard to U.S. Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611 on November 10, 2008. The envelope was returned, marked Return to Sender. A copy of the original mailing and the return envelope are enclosed.

*(Please attach additional sheets if additional space is needed)*



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## MAINTENANCE FEE TRANSMITTAL FORM

Address to:  
U.S. Patent and Trademark Office  
P.O. Box 371611  
Pittsburgh, PA 15250-1611

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611" on November 10, 2008

Signature D. L. Banner

RECEIVED

Typed or printed name David L. Banner

JAN 07 2009

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

OFFICE OF PETITIONS

- A check for the amount of \$ 555.00 for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed.
- The Director is hereby authorized to charge \$ \_\_\_\_\_ to cover the payment of the fee(s) indicated below to Deposit Account No. \_\_\_\_\_. A duplicative copy of this form is enclosed.
- The Director is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. \_\_\_\_\_. A duplicative copy of this form is enclosed.
- Payment by credit card. Form PTO-2038 is attached.

\* Information required by 37 CFR 1.366(c) (columns 1 &amp; 4). Information requested under 37 CFR 1.366(d) (columns 2, 3, &amp; 5)

Item	Patent Number*  Column 1	Maintenance Fee Amount (37 CFR 1.20 (e)-(g))  Column 2	Surcharge Amount (37 CFR 1.20(h))  Column 3	U.S. Application Number* [e.g., 06/555,555]  Column 4	Payment Year		
					3.5 yrs	7.5 yrs	11.5 yrs
1	6,816,151	490.00	65.00	09/986,591	✓		
2							
3							
4							
5							
Subtotals: Columns 2 & 3							
Total Payment		\$555.00			<input type="checkbox"/>	additional sheets attached for listing additional patents.	

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on Form PTO-2038.**

Respectfully submitted, \*\*

Customer's Signature: D. L. Banner

Customer's Name: David L. Banner

Registration Number, if applicable: 39,898

Telephone: (607) 341-4122

Fax:

Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided.  
See 37 CFR 1.363.

Payment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 CFR 1.27 and 1.33(b).

\*\* WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

This collection of information is required by 37 CFR 1.366. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA, 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS: SEND TO: United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611.

